

Supreme Court Appeals  
Pending Cases  
(12-18-13)

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1.	Style	Guadalupe Arroyo v. State
2.	Docket Number	E2012-02703-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/arroyoguadalupeopn.pdf">http://www.tncourts.gov/sites/default/files/arroyoguadalupeopn.pdf</a>
4.	Lower Court Summary	<p>Petitioner, Guadalupe Arroyo, pleaded guilty to two counts of vehicular homicide and received an effective sentence of twenty-four years in the Tennessee Department of Correction. He appealed his sentence twice, and this court remanded his case to the trial court both times. <i>See State v. Guadalupe Arroyo</i>, No. E2002-00639-CCA-R3-CD, 2003 WL 1563209, at *1 (Tenn. Crim. App. Mar. 27, 2003); <i>State v. Guadalupe Arroyo</i>, No. E2003-02355-CCA-R3-CD, 2004 WL 1924033, at *1 (Tenn. Crim. App. Aug. 30, 2004). After the second remand, the trial court again sentenced petitioner to twenty-four years. Petitioner filed a petition for post-conviction relief alleging that he received ineffective assistance of counsel and that he was unconstitutionally denied the right to appeal the trial court's last sentencing order. The post-conviction court dismissed the petition twice, and petitioner successfully appealed both times. <i>See Guadalupe Arroyo v. State</i>, No. E2006-01037-CCA-R3-PC, 2007 WL 3144999, at *1 (Tenn. Crim. App. Oct. 29, 2007); <i>Guadalupe Arroyo v. State</i>, No. E2008-01220-CCA-R3-PC, 2009 WL 2503152, at *1 (Tenn. Crim. App. Aug. 17, 2009). Eventually, the post-conviction court held an evidentiary hearing and denied post-conviction relief. Petitioner now appeals, arguing that he received ineffective assistance of counsel and requesting a delayed appeal. Following our review, we affirm the judgment of the post-conviction court.</p>
5.	Status	To be submitted on briefs 01/08/14 in Knoxville

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1.	Style	In re Baby et al.
2.	Docket Number	M2012-01040-SC-R11-JV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/inre_baby_opn.pdf">http://www.tncourts.gov/sites/default/files/inre_baby_opn.pdf</a>
4.	Lower Court Summary	<p>This case involves the status of the parties with respect to a baby conceived pursuant to a surrogacy agreement. The juvenile court determined that there was a valid surrogacy agreement and denied the surrogate's requests for relief from a final order ratifying the surrogacy agreement. We affirm the decision of the juvenile court.</p>
5.	Status	Heard 10/01/13 at the MTSU S.C.A.L.E.S. project

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1.	Style	R. Sadler Bailey v. Board of Professional Responsibility
2.	Docket Number	W2013-01979-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Appellate record filed 10/21/13; BPR's brief filed 11/20/13; Appellee's response brief due 01/20/14, after extension
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1.	Style	State v. David Dwayne Bell
2.	Docket Number	E2011-01241-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/pcbellopn.pdf">http://www.tncourts.gov/sites/default/files/pcbellopn.pdf</a>
4.	Lower Court Summary	The defendant was indicted on one count of driving under the influence (DUI) and one alternative count of driving with a blood alcohol content of .08 or higher. Prior to trial, the defendant filed a motion to suppress certain evidence obtained by the police on the grounds that the defendant was arrested without probable cause. The trial judge granted this motion and ultimately dismissed both counts. On appeal, the State argues that the trial court erred by determining that the arresting officer did not have probable cause. After reviewing the record and the arguments of the parties, we conclude that the trial court committed no error and affirm its judgment accordingly.
5.	Status	Heard 09/04/13 in Knoxville
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1.	Style	Brenda Benz-Elliott v. Barrett Enterprises, LP et al.
2.	Docket Number	M2013-00270-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/benz-elliottb_opn.pdf">http://www.tncourts.gov/sites/default/files/benz-elliottb_opn.pdf</a>
4.	Lower Court Summary	In this dispute concerning a real estate sale contract, we have concluded that the gravamen of the action is for injury to property and that, under the applicable legal principles, the evidence preponderates against the trial court's finding as to when the statute of limitations began to run. Because the action is barred by the statute of limitations, we reverse the decision of the trial court.
5.	Status	Application granted 12/11/13; Appellant's brief due 01/10/14
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1.	Style	State v. Courtney Bishop
2.	Docket Number	W2010-01207-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/bishopcourtneyopn.pdf">http://www.tncourts.gov/sites/default/files/bishopcourtneyopn.pdf</a>
4.	Lower Court Summary	The defendant, Courtney Bishop, appeals his Shelby County Criminal Court jury convictions for felony murder and attempted aggravated robbery, challenging the sufficiency of the convicting evidence and the trial court's refusal to suppress his pretrial statement to police. Because the trial court erred by failing to suppress the defendant's statement, the defendant is entitled to a new trial. Because the evidence was insufficient to support the defendant's convictions for attempted aggravated robbery and first degree murder in the perpetration of attempted aggravated robbery, those convictions are reversed. The conviction for attempted aggravated robbery is dismissed. The conviction for first degree murder is modified to one for second degree murder. Accordingly, the case is remanded for a new trial on the modified charge of second degree murder.
5.	Status	Heard 04/03/13 in Jackson
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1.	Style	Calvin Eugene Bryant v. State
2.	Docket Number	M2012-01560-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/bryantcalvinopn.pdf">http://www.tncourts.gov/sites/default/files/bryantcalvinopn.pdf</a>
4.	Lower Court Summary	The Petitioner, Calvin Eugene Bryant, appeals the Davidson County Criminal Court's denial of post-conviction relief. The Petitioner argues on appeal that trial counsel provided ineffective assistance of counsel by failing to request a jury instruction on the lesser included offense of facilitation. Upon review, we affirm the judgment of the post-conviction court.
5.	Status	Application granted 12/12/13; Appellant's brief due 01/13/14
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1.	Style	Derrick Brandon Bush v. State
2.	Docket Number	M2011-02133-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/bushdopn.pdf">http://tncourts.gov/sites/default/files/bushdopn.pdf</a>
4.	Lower Court Summary	Derrick Brandon Bush ("the Petitioner") pled guilty to two counts of attempt to commit rape in December 2000. On April 25, 2011, the Petitioner filed for post-conviction relief, alleging that his guilty plea was unconstitutional in light of <i>Ward v. State</i> , 315 S.W.3d 461 (Tenn. 2010), and that the one-year post-conviction statute

of limitations should be tolled. After a hearing, the post-conviction court granted relief. The State appealed. Upon our thorough review of the record, we hold that the rule announced in *Ward* does not apply retroactively. Therefore, the Petitioner is not entitled to tolling of the statute of limitations pursuant to Tennessee Code Annotated section 40-30-102(b)(1). We also hold that the Petitioner is not entitled to tolling on due process grounds. Thus, the Petitioner's claim for relief is barred by the statute of limitations. Accordingly, we reverse the judgment of the post-conviction court.

5.	Status	Heard 05/01/13 in Knoxville
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1.	Style	Doris Cannon as Conservator for the Use and Benefit of Juanita E. Good v. Bhasker Reddy, M.D.
2.	Docket Number	M2012-01332-SC-S10-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 02/06/13 in Nashville
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1.	Style	State v. Fred Chad Clark, II
2.	Docket Number	M2010-00570-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/clarkfredchadopen.pdf">http://www.tncourts.gov/sites/default/files/clarkfredchadopen.pdf</a>
4.	Lower Court Summary	The Defendant, Fred Chad Clark, II, was found guilty by a Davidson County Criminal Court jury of seven counts of rape of a child and two counts of aggravated sexual battery. <i>See</i> T.C.A. §§ 39-13-522 (Supp. 2005, 2006) (amended 2007, 2011) (rape of a child), -504 (2006) (aggravated sexual battery). He was sentenced as a Range I offender to seventeen years for each rape of a child conviction and to ten years for each aggravated sexual battery conviction, to be served at 100% as a child rapist. The trial court ordered partial consecutive sentencing, for an effective thirty-four year sentence. On appeal, the Defendant contends that (1) the evidence is insufficient to support the convictions because the State failed to establish the corpus delicti; (2) there was a material variance between the proof and the State's election of offenses; (3) the trial court erred in admitting surreptitiously recorded conversations he had with his wife on January 18, 2007; (4) the trial court erred in admitting evidence of the Defendant's use of pornography; (5) the trial court erred in allowing a detective to offer opinion testimony about the Defendant's truthfulness; (6) the trial court erred in instructing the jury on the mental state of recklessness for the counts involving rape of a child; and (7) the trial court erred in sentencing by using an inapplicable enhancement factor and in imposing consecutive sentences. We affirm the judgments of the trial court in Counts V, VI,

VII, IX, and X. Due to deficiencies in the election of offenses relative to Counts I, II, III, and IV, we reverse those convictions and remand the case for a new trial for those counts.

5. Status Heard 10/02/13 in Nashville

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1. Style Jeffrey R. Cooper v. Phillip Glasser et al.

2. Docket Number M2012-00344-SC-R11-CV

3. Lower Court Decision Link [http://www.tncourts.gov/sites/default/files/cooperjr\\_opn.pdf](http://www.tncourts.gov/sites/default/files/cooperjr_opn.pdf)

4. Lower Court Summary Jeffrey R. Cooper (“Cooper”) sued Phillip Glasser, Richard Glasser, and David Glasser (“the Defendants”) in the Circuit Court for Davidson County (“the Trial Court”) for, among other things, breach of contract. Cooper previously had filed two lawsuits arising out of the same underlying facts as those of this lawsuit. Both previous lawsuits, the first in a California state court and the second in a United States District Court in Tennessee, were voluntarily dismissed. The Defendants filed a motion for summary judgment. The Trial Court held that the second voluntary dismissal in federal court was a judgment on the merits under the Federal Rules of Civil Procedure, and, *res judicata* prevented Cooper from filing suit for a third time in Tennessee. Cooper appeals. We affirm.

5. Status Opinion filed 11/26/13

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1. Style Jolyn Cullum et al. v. Jan McCool et al.

2. Docket Number E2012-00991-SC-R11-CV

3. Lower Court Decision Link [http://www.tncourts.gov/sites/default/files/cullumopn\\_1.pdf](http://www.tncourts.gov/sites/default/files/cullumopn_1.pdf)

4. Lower Court Summary This is a negligence case in which Jolyn Cullum and Andrew Cullum sued Jan McCool, William H. McCool, and Wal-Mart for injuries arising in a Wal-Mart parking lot. Wal-Mart filed a motion to dismiss, alleging that the Cullums had failed to state a claim upon which relief could be granted. The trial court dismissed the suit against Wal-Mart. The Cullums appeal. We reverse the decision of the trial court and remand the case.

5. Status Opinion filed 12/18/13

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1. Style Jerry Ray Davidson v. State

2. Docket Number M2010-02663-SC-R11-PD

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/davidson_jerry_ray_pc_-_draft_opinion.pdf">http://www.tncourts.gov/sites/default/files/davidson_jerry_ray_pc_-_draft_opinion.pdf</a>
4.	Lower Court Summary	The Dickson County Circuit Court denied the Petitioner, Jerry Ray Davidson, post-conviction relief from his convictions of first degree premeditated murder and aggravated kidnapping and his sentence of death. The Petitioner appeals. Having discerned no error, we affirm the post conviction court's denial of relief.
5.	Status	Application granted 06/14/13; Appellant's brief filed 09/16/13; State's response brief filed 11/15/13; Appellant's reply brief due 12/20/13, after extension (To be heard 02/05/14 in Nashville)
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1.	Style	State v. Marlo Davis
2.	Docket Number	W2011-01548-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/davismarloopn.pdf">http://www.tncourts.gov/sites/default/files/davismarloopn.pdf</a>
4.	Lower Court Summary	The Defendant, Marlo Davis, was convicted by a Shelby County jury of second degree murder and reckless homicide. Subsequently, the trial court merged the reckless homicide into the second degree murder conviction and imposed a sentence of forty years. In this direct appeal, the Defendant challenges (1) the sufficiency of the evidence supporting his convictions; (2) the mutually exclusive nature of the verdicts and whether the offenses were properly merged; (3) the admission of prior inconsistent statements by a witness, who had no memory of making those statements at the time of trial, as substantive evidence; (4) the imposition of the maximum forty-year sentence in violation of <i>Blakely v. Washington</i> , 542 U.S. 296 (2004); and (5) the cumulative effect of these errors. After a thorough review of the record and the applicable authorities, we affirm the judgment of the trial court.
5.	Status	Application granted 11/13/13; Appellant's brief filed 12/16/13; State's response brief due 01/15/14
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1.	Style	State v. Jessie Dotson
2.	Docket Number	W2011-00815-SC-DDT-DD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/dotsonjessieopn.pdf">http://www.tncourts.gov/sites/default/files/dotsonjessieopn.pdf</a>
4.	Lower Court Summary	A Shelby County jury convicted the defendant, Jessie Dotson, of six counts of premeditated first degree murder and three counts of attempted first degree murder. The jury sentenced the defendant to death for each conviction of first degree murder. Following a separate sentencing hearing, the trial court sentenced the defendant as a Range II, multiple offender to forty years for each conviction for

attempted first degree murder, to be served consecutively to each other and to the first degree murder sentences. On appeal, the defendant contends that: (1) the evidence is insufficient to support his convictions; (2) testimony regarding one of the victims' statement to police was hearsay and its admission violated the United States and Tennessee Constitutions; (3) the admission of the defendant's custodial statements violated his rights under the United States and Tennessee Constitutions; (4) the admission of testimony that the defendant invoked his right to counsel violated his due process rights; (5) the admission of testimony regarding the defendant's history of imprisonment violated his right to a fair trial; (6) the trial court's treatment of defense counsel in the jury's presence violated his right to a fair trial; (7) the admission of the pathologist's testimony regarding autopsies that she did not perform violated the defendant's confrontation rights; (8) the trial court erred in admitting photographs of the victims; (9) the trial court erred in denying the defendant's motion to provide DNA analysis of all those who came in contact with the crime scene; (10) the trial court erred in denying the defendant's motion for production of the statements of those not to be called as witnesses for the State; (11) the trial court improperly defined "reasonable doubt" in instructing the jury; (12) the trial court erred in refusing to instruct the jury on facilitation of first degree murder as a lesser included offense; (13) the trial court erred in denying the defendant's motion to strike aggravating circumstances; (14) the trial court erred in denying the defendant's motion for a probable cause finding regarding the aggravating circumstances; (15) the trial court erred in denying the defendant's motion for disclosure of information regarding the proportionality review; (16) the admission of victim impact evidence was improper; (17) the trial court erred in denying the defendant's motion to argue last during the penalty phase; (18) the State committed prosecutorial misconduct during its argument to the jury; (19) the trial court erred in allowing the death verdicts to stand; (20) the defendant's sentences for his three convictions for attempted first degree murder were excessive; and (21) cumulative error requires reversal. Based upon our review of the record and the applicable law, we affirm the judgments of the trial court.

5.	Status	Transferred to Supreme Court 07/10/13; Appellant's brief filed 09/11/13; State's response brief filed 11/12/13; Appellant's reply brief due 12/26/13, after extension
1.	Style	State v. Justin Ellis
2.	Docket Number	E2011-02017-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/ellisjustinopn.pdf">http://tncourts.gov/sites/default/files/ellisjustinopn.pdf</a> <a href="http://tncourts.gov/sites/default/files/ellis_dissent.pdf">http://tncourts.gov/sites/default/files/ellis_dissent.pdf</a>
4.	Lower Court Summary	The Defendant, Justin Ellis, was convicted by a Knox County jury of aggravated burglary, employing a firearm during the commission of a dangerous felony, aggravated assault, and aggravated robbery. The aggravated assault conviction was merged with the aggravated robbery conviction. The trial court imposed an effective nineteen-year sentence. On appeal, the Defendant argues that the successor judge erroneously determined that he was qualified to act as thirteenth juror in this case. Following our review of the record and the applicable authorities, we conclude that the successor trial judge could not act as the thirteenth juror and reverse the judgments of the trial court and remand the case for a new trial.

5.	Status	State's application granted 08/13/13; State's brief filed 11/01/13; Appellee's response brief filed 11/20/13
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1.	Style	State v. Broderick Devonte Fayne
2.	Docket Number	W2012-01488-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/faynebroderickopn.pdf">http://www.tncourts.gov/sites/default/files/faynebroderickopn.pdf</a>
4.	Lower Court Summary	The defendant, Broderick Devonte Fayne, was convicted by a Tipton County jury of aggravated burglary and employing a firearm during the commission of a dangerous felony, both Class C felonies. The trial court sentenced him as a Range I, standard offender to consecutive terms of three years at 30% for the aggravated burglary conviction and to six years at 100% for the employing a firearm during a dangerous felony conviction, for a total effective sentence of nine years in the Department of Correction. In a timely appeal to this court, the defendant raises the following issues: (1) whether the evidence is sufficient to sustain his conviction for employing a firearm during the commission of a dangerous felony; (2) whether the trial court erred by denying his motion for a mistrial following the prosecutor's introduction of his defense counsel as employees of the public defender's office; (3) whether the trial court properly allowed the defendant's accomplice to testify regarding his understanding of the charges against him; (4) whether his right to a fair trial was violated by the State's arguing alternate theories of his guilt; and (5) whether the trial court erred by denying his request for jury instructions defining possession and constructive possession. Following our review, we affirm the judgments of the trial court.
5.	Status	Application granted 11/13/13; Appellant's brief filed 12/12/13; State's response brief due 01/13/14 (To be heard 04/10/14 at the 24th Judicial District S.C.A.L.E.S. project)
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1.	Style	Jim Ferguson v. Middle Tennessee State University
2.	Docket Number	M2012-00890-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/fergusonj_opn.pdf">http://www.tncourts.gov/sites/default/files/fergusonj_opn.pdf</a>
4.	Lower Court Summary	This appeal involves an employee's claim of retaliation for engaging in protected activity. The plaintiff employee filed a lawsuit against his employer, the defendant university, asserting several claims of employment discrimination under state and federal statutes. Subsequently, in a second lawsuit against the university, the plaintiff employee asserted that he suffered adverse job actions after he filed his charge of discrimination with the federal Equal Employment Opportunity Commission and the first discrimination lawsuit. The alleged adverse job actions included making the employee perform tasks that resulted in physical injuries. The lawsuits were consolidated and, after an eight-day jury trial, the jury awarded the

employee \$3 million in compensatory damages on the retaliation claim only. The defendant university appeals. We hold that, to prove a claim of retaliation for engaging in protected activity, the plaintiff was required to present material evidence to the jury that the decisionmaker, his supervisor at the university, was aware of the plaintiff's protected activity when she took the adverse job actions against the plaintiff. The plaintiff employee presented no material evidence at trial of such knowledge by his supervisor at the relevant time. Accordingly, we reverse the trial court's judgment and remand for entry of an order dismissing the plaintiff employee's complaint.

5.	Status	To be heard 02/06/14 in Nashville
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1.	Style	Samuel E. Foster et al. v. Walter William Chiles, III, M.D. et al.
2.	Docket Number	E2012-01780-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/fosterse.pdf">http://www.tncourts.gov/sites/default/files/fosterse.pdf</a>
4.	Lower Court Summary	This is a health care liability case. Samuel E. Foster and his wife, Mary Foster, timely filed a complaint after properly sending pre-suit notices to the potential defendants as required by Tenn. Code Ann. § 29-26-121(a) (2012). After nonsuiting their first lawsuit, they timely filed a second complaint in which they alleged the same cause of action against the same defendants. The second complaint alleged compliance with section 121(a), citing the notices already properly sent before the first complaint was filed. The trial court dismissed the second complaint with prejudice based upon the court's determination that plaintiffs failed to satisfy the notice requirement of section 121(a). We hold that plaintiffs complied with section 121(a)'s notice requirement by giving a written notice of their potential health care liability claim to each defendant at least 60 days prior to the filing of their second complaint. We further hold that section 121 does not mandate dismissal with prejudice for noncompliance with its terms, and that plaintiffs' inadvertent failure to file – with the second complaint – proof of their service of the subject notices does not warrant dismissal with prejudice. We vacate the trial court's order of dismissal and remand for further proceedings.
5.	Status	Application granted 11/13/13; Appellants' briefs filed 12/12/13; Plaintiffs' brief due 01/13/14
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1.	Style	State v. John T. Freeland, Jr.
2.	Docket Number	W2011-01828-SC-DDT-DD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/freelandjohnstopn.pdf">http://www.tncourts.gov/sites/default/files/freelandjohnstopn.pdf</a>
4.	Lower Court Summary	Defendant, John T. Freeland, Jr., appeals from his Madison County Circuit Court convictions of first degree premeditated murder, <i>see</i> Tenn. Code Ann. § 39-13-

202(a)(1); first degree murder committed in the perpetration of an especially aggravated kidnapping, *see id.* § 39-13-202(a)(2); especially aggravated kidnapping, *see id.* § 39-13-305; and tampering with evidence, *see id.* § 39-16-503(a)(1). Following a bench trial regarding both guilt and punishment, *see id.* § 39-13-205, the trial court sentenced Defendant to death for each first degree murder conviction based upon its findings that the defendant was previously convicted of one or more felonies whose statutory elements involve the use of violence, *see id.* § 39-13-204(i)(2); the murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant, *see id.* § 39-13-204(i)(6); the murder was knowingly committed, solicited, directed, or aided by the defendant, while the defendant had a substantial role in committing or attempting to commit, an aggravated robbery, *see id.* § 39-13-204(i)(7); and that these aggravating circumstances outweighed any mitigating circumstances beyond a reasonable doubt. The trial court also imposed consecutive sentences of 20 years' incarceration for the especially aggravated kidnapping conviction and five years' incarceration for the tampering with evidence conviction. In addition to challenging the sufficiency of the evidence to support his convictions of first degree murder and especially aggravated kidnapping, Defendant challenges the trial court's denial of his motion to suppress statements and the imposition of the death penalty. Because we determine that the trial court failed to merge the first degree murder convictions at sentencing, we remand the case for correction of the judgments to effectuate proper merger. In all other respects, however, we affirm the judgments of the trial court.

5.	Status	Transferred to Supreme Court 06/17/13; Appellant's brief filed 08/16/13; State's response brief filed 10/15/13. (To be heard 04/10/14 at the 24th Judicial District S.C.A.L.E.S. project)
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1.	Style	Juan Alberto Blanco Garcia v. State
2.	Docket Number	M2012-01058-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/garciajuanopn.pdf">http://www.tncourts.gov/sites/default/files/garciajuanopn.pdf</a>
4.	Lower Court Summary	The petitioner, Juan Alberto Blanco Garcia, appeals the denial of his petition for postconviction relief, arguing that he received the ineffective assistance of trial counsel and that his guilty pleas were unknowing and involuntary. Following our review, we affirm the postconviction court's denial of the petition.

5.	Status	Heard 10/01/13 at the MTSU S.C.A.L.E.S. project
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1.	Style	State v. William Eugene Hall
2.	Docket Number	M2012-00336-SC-DDT-DD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/hallwillameugenedp_opn.pdf">http://www.tncourts.gov/sites/default/files/hallwillameugenedp_opn.pdf</a>

4.	Lower Court Summary	The Appellant, William Eugene Hall, was convicted of two counts of felony murder, three counts of first degree burglary, three counts of grand larceny, and one count of petit larceny. The Appellant received the death penalty for one of the murder convictions, a life sentence for the other, and an effective eighty-year sentence for the remaining convictions. The Appellant was unsuccessful in his original direct appeal. <i>State v. Hall</i> , 976 S.W.2d 121 (Tenn. 1998). The Appellant subsequently pursued post-conviction relief. This Court affirmed the trial court's denial of that relief. <i>William Eugene Hall v. State</i> , No. M2005-02959-CCA-R3-PD, 2008 WL 2649637 (Tenn. Crim. App., July 7, 2008). The supreme court, however, has granted the Appellant a delayed appeal. This appeal stems from the original and amended motions for new trial, which the trial court denied. Following our review, we affirm.
5.	Status	Transferred to Supreme Court 11/06/13; Appellant's brief due 01/06/14, after extension
1.	Style	William Caldwell Hancock v. Board of Professional Responsibility
2.	Docket Number	M2012-02596-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Transcript of the evidence filed 07/22/13; Appellant's brief filed 10/25/13; BPR's response brief filed 12/10/13; Appellant's reply brief due 12/26/13 (To be heard 02/05/14 in Nashville)
1.	Style	Dennis Michael Harris et ux. v. Mickey Deanne Haynes et al.
2.	Docket Number	E2012-02213-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/harrisdmopn1.pdf">http://www.tncourts.gov/sites/default/files/harrisdmopn1.pdf</a>
4.	Lower Court Summary	This appeal concerns whether certain exclusions in a coverage document are permissible. Dennis Michael Harris ("Harris"), then a patrolman with the Anderson County Sheriff's Department, was injured when he was struck by a vehicle driven by Mickey Deanne Haynes ("Haynes"). Harris and his wife, Judy A. Harris, (collectively, "the Plaintiffs") sued Haynes and the alleged owner of the vehicle, Richard H. Furrow, in the Circuit Court for Anderson County ("the Trial Court"). The Plaintiffs also raised claims against Anderson County's motor vehicle liability coverage provider, Tennessee Risk Management Trust ("TRMT"), for uninsured or underinsured motorist coverage. TRMT filed a motion for summary judgment, arguing that under the relevant coverage document ("the Coverage Document"), Harris was excluded from uninsured coverage as he was an employee of Anderson

County who had received workers compensation. The Trial Court granted TRMT's motion. The Plaintiffs appeal. We hold that Anderson County was self-insured through TRMT, and, therefore, the uninsured/underinsured motorist statutes do not apply. The Coverage Document excluded employees such as Harris from uninsured coverage. We affirm.

5.	Status	Application granted 10/18/13; Appellant's brief filed 11/04/13; Appellee's response brief filed 12/06/13; Appellant's reply brief due 12/20/13
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1.	Style	State v. Barry H. Hogg
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2.	Docket Number	M2012-00303-SC-R11-CD
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/hoggbopn.pdf">http://www.tncourts.gov/sites/default/files/hoggbopn.pdf</a>
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4.	Lower Court Summary	<p>Appellant, Barry Hogg, was indicted by the Wilson County Grand Jury for eleven counts of especially aggravated sexual exploitation of a minor, nine counts of criminal exposure to HIV, nine counts of aggravated statutory rape, and one count of sexual battery. Prior to trial, the State dismissed one count of sexual battery, two counts of criminal exposure, and three counts of aggravated statutory rape. A jury found Appellant guilty of the remaining counts, including eleven counts of especially aggravated sexual exploitation, seven counts of criminal exposure of another to HIV, and six counts of aggravated statutory rape. As a result of the convictions, the trial court sentenced Appellant to twelve years at one hundred percent incarceration for the especially aggravated sexual exploitation convictions, six years at thirty percent for each of the criminal exposure of another to HIV convictions, and four years at thirty percent for each of the aggravated statutory rape convictions. The trial court ordered the convictions for especially aggravated sexual exploitation to be served consecutively to the seven convictions for criminal exposure of another to HIV and consecutively to each other. The trial court ordered Appellant's aggravated statutory rape sentences to run concurrently with one another and with all other counts, for a total effective sentence of 174 years. Appellant appeals his convictions, contesting the sufficiency of the evidence and his sentences. After a review of the record, we determine that the evidence was sufficient support the convictions and that the evidence supported individual convictions for events that occurred during one sexual encounter. Further, the trial court properly sentenced Appellant. Accordingly, the judgments of the trial court are affirmed.</p>
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5.	Status	To be heard 02/06/14 in Nashville
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1.	Style	Erik Hood v. Casey Jenkins et al.
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2.	Docket Number	E2011-02749-SC-R11-CV
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/hoodopn.pdf">http://www.tncourts.gov/sites/default/files/hoodopn.pdf</a>
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4.	Lower Court Summary	This appeal involves a claim for breach of a life insurance contract issued by Old Line. Father named his son, a minor, as the beneficiary of his life insurance policy. When Father died, the proceeds of the policy were issued to minor's older sister, who depleted the funds. Beneficiary filed suit against Sister and Old Line, alleging that Sister misappropriated the life insurance proceeds and that Old Line erroneously awarded the proceeds to Sister without proper documentation. A default judgment was entered against Sister. Following a trial on Beneficiary's claim against Old Line, the court ordered Old Line to re-issue a portion of the proceeds to Beneficiary. Old Line appeals. We affirm the decision of the trial court.
5.	Status	Heard 09/04/13 in Knoxville
1.	Style	Roger David Hyman v. Board of Professional Responsibility
2.	Docket Number	E2012-02091-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 09/04/13 in Knoxville
1.	Style	State v. Noura Jackson
2.	Docket Number	W2009-01709-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/jacksonnouraopn.pdf">http://www.tncourts.gov/sites/default/files/jacksonnouraopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/jackson_noura_-_jsb_second_revised_concurring_opinion.pdf">http://www.tncourts.gov/sites/default/files/jackson_noura_-_jsb_second_revised_concurring_opinion.pdf</a>
4.	Lower Court Summary	The defendant, Noura Jackson, was convicted of second degree murder for the death of her mother, Jennifer Jackson, and sentenced to twenty years and nine months in the Department of Correction. On appeal, she argues that the trial court erred in the following rulings: (1) concluding that her conversation at the scene with a family friend, who is an attorney, was not subject to the attorney-client privilege; (2) concluding that the searches of the residence she shared with the victim and of a vehicle parked in the driveway were lawful; (3) allowing testimony of lay witnesses as to her use of "drugs"; (4) allowing testimony of her having sexual relations at a time after the murder, as to her eviction from an apartment after the murder, and as to her hospitalization at Lakeside Hospital after the murder; (5) allowing the victim's brother and sisters to testify as to arguments between the defendant and the victim prior to the murder; and (6) allowing certain photographs of the crime scene and the victim's body. Additionally, the defendant argues that she is entitled to a new trial because of (7) prosecutorial conduct consisting of references to the post-arrest silence of the defendant; suppression of the third statement of a State's witness; loudly beginning its opening statement by saying,

“Give me the f\*cking money”; using a misleading PowerPoint presentation during its closing argument; commenting on her right to remain silent; references to the Deity during closing arguments; commenting in closing argument on the length of the trial; treating as established facts which were not proven at trial; making personal attacks during closing statements upon her; and making additional improper statements during closing argument. Further, the defendant argues on appeal that (8) the evidence is insufficient to support her conviction for second degree murder and that (9) the court erred in imposing more than a minimum sentence. We have carefully reviewed the record and conclude that the arguments of the defendant are without merit. Accordingly, we affirm the judgment of the trial court.

5.	Status	Heard 11/06/13 in Jackson
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1.	Style	Edith Johnson et al. v. Mark C. Hopkins et al.
2.	Docket Number	M2012-02468-SC-S09-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 10/02/13 in Nashville
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1.	Style	State v. Henry Lee Jones
2.	Docket Number	W2009-01655-SC-DDT-DD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/joneshenryopn.pdf">http://www.tncourts.gov/sites/default/files/joneshenryopn.pdf</a>
4.	Lower Court Summary	Appellant, Henry Lee Jones, appeals from his convictions of two counts of premeditated first degree murder and two counts of felony murder and his sentences of death resulting from the August 2003 deaths of Clarence and Lillian James. At the conclusion of the penalty phase, the jury unanimously found the presence of four statutory aggravating circumstances relating to the murder of Mrs. James: (1) Appellant was previously convicted of two or more felonies involving the use of violence; (2) the murder was especially heinous, atrocious, or cruel; (3) the murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of Appellant or another; and (4) the murder was knowingly committed while Appellant had a substantial role in committing any robbery. <i>See</i> T.C.A. § 39-13-204(i)(2), (5), (6), (7). The jury unanimously found the presence of the same four statutory aggravating circumstances with regard to the murder of Mr. James, as well as an additional statutory aggravating circumstance, that the victim was 70 years of age or older. <i>See id.</i> at (i)(14). The jury determined that these aggravating circumstances outweighed any mitigating circumstances and imposed sentences of death. On appeal, the following issues are presented for our review: (1)

whether the trial court erred in admitting evidence of a subsequent murder; (2) whether the evidence is sufficient to support the convictions; (3) whether the trial court erred in admitting photographs of the victims; and (4) whether Tennessee's sentencing statute for first degree murder is unconstitutional. After a review of the record and the applicable law, we affirm Appellant's convictions and sentences of death and remand this matter to the trial court for entry of a single judgment of conviction for first degree murder with regard to each victim.

5.	Status	Transferred to Supreme Court 05/02/13; Appellant's brief filed 06/14/13; State's response brief filed 09/05/13; Appellant's supplemental brief due 12/20/13
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1.	Style	Zoyle Jones v. State
2.	Docket Number	M2012-02546-SC-S09-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 10/02/13 in Nashville

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1.	Style	Terri Ann Kelly v. Willard Reed Kelly
2.	Docket Number	E2012-02219-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/kellytaopn.pdf">http://www.tncourts.gov/sites/default/files/kellytaopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/kellytadis.pdf">http://www.tncourts.gov/sites/default/files/kellytadis.pdf</a>
4.	Lower Court Summary	This appeal arises from a divorce and child custody determination. After 18 years of marriage, Terri Ann Kelly ("Wife") sued Willard Reed Kelly ("Husband") for divorce in the Circuit Court for Hamilton County ("the Trial Court"). The Trial Court, among other things, awarded Wife alimony and custody of the parties' son, Will. Husband appeals, raising several issues. We reverse the Trial Court in its award of custody of Will to Wife. We modify the Trial Court's division of the marital estate and its award of alimony to Wife. Finally, we affirm the Trial Court as to its award of attorney's fees to Wife. We affirm, in part, as modified, and reverse, in part, the judgment of the Trial Court.
5.	Status	Application granted 12/10/13; Appellant's brief due 01/09/14

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1.	Style	Edward Thomas Kendrick, III v. State
2.	Docket Number	E2011-02367-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/kendrickeopn.pdf">http://www.tncourts.gov/sites/default/files/kendrickeopn.pdf</a>

4.	Lower Court Summary	Edward Thomas Kendrick, III (“the Petitioner”) was convicted by a jury of first degree premeditated murder. This Court affirmed the Petitioner’s conviction on direct appeal. The Petitioner filed for post-conviction relief, alleging ineffective assistance of counsel. After a hearing, the post-conviction court denied relief, and this appeal followed. Upon our thorough review of the record and the applicable law, we are constrained to conclude that the Petitioner established that he received the ineffective assistance of counsel at trial, because it is reasonably likely that a jury would have convicted him of a lesser degree of homicide absent the deficiencies in his trial counsel’s performance. Accordingly, we must reverse the Petitioner’s conviction and remand this matter for further proceedings.
5.	Status	State’s application granted 11/13/13; State’s brief due 01/13/14, after extension
1.	Style	Kenneth E. King v. Anderson County
2.	Docket Number	E2012-00386-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/kingke.pdf">http://www.tncourts.gov/sites/default/files/kingke.pdf</a>
4.	Lower Court Summary	Kenneth E. King was arrested for driving on a revoked license. He was put in a cell with several violent criminals. At his arraignment, the court ordered him released. The person charged with processing the release delayed his release by simply doing nothing. While awaiting his release, Mr. King was assaulted by one of his cellmates. He sustained serious injuries, including partial loss of vision in one eye. He filed this action against Anderson County (“the County”). After a bench trial, the court found the County 55% at fault and King 45% at fault for provoking the assault. It determined that the total damages were \$170,000 reduced to \$93,500 to account for King’s comparative fault. The County appeals. We affirm.
5.	Status	Opinion filed 11/21/13
1.	Style	State v. Kiara Tashawn King
2.	Docket Number	M2012-00236-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/kingopn3_1.pdf">http://tncourts.gov/sites/default/files/kingopn3_1.pdf</a>
4.	Lower Court Summary	The defendant, Kiara Tashawn King, pled guilty to aggravated burglary, a Class C felony, and theft of property with a value of \$500 or more, a Class E felony. Following a sentencing hearing, the trial court sentenced the defendant as a Range I, standard offender, to an effective five-year sentence, to be served on probation. On appeal, the defendant contends that the trial court failed to follow the correct sentencing procedure, imposed an excessive sentence, and erred by denying judicial diversion. Upon review, we conclude that the trial court did not abuse its discretion by imposing an effective sentence of five years of probation and that its decision to

deny judicial diversion did not wholly depart from the principles and purposes of the Sentencing Act. We affirm the sentences imposed by the trial court accordingly.

5.	Status	To be heard 02/06/14 in Nashville
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1.	Style	Fletcher Whaley Long v. Board of Professional Responsibility
2.	Docket Number	M2013-01042-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	To be heard 02/05/14 in Nashville
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1.	Style	Thomas Fleming Mabry v. Board of Professional Responsibility
2.	Docket Number	E2013-01549-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Appellate record filed 10/23/13; Appellant's brief filed 11/22/13; BPR's response brief due 12/23/13
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1.	Style	State v. Barry D. McCoy
2.	Docket Number	M2013-00912-SC-R11-CD
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	State's application granted 09/10/13; State's brief filed 11/15/13; Appellee's response brief filed 12/09/13; State's reply brief due 12/23/13 (To be heard 02/06/14 in Nashville)
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1.	Style	Clarence Nesbit v. State
2.	Docket Number	W2009-02101-SC-R11-PD

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/nesbitclarenceopn.pdf">http://www.tncourts.gov/sites/default/files/nesbitclarenceopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/nesbitclarencedis.pdf">http://www.tncourts.gov/sites/default/files/nesbitclarencedis.pdf</a>
4.	Lower Court Summary	Petitioner, Clarence Nesbit, was convicted by a Shelby County Criminal Court jury of first degree murder and sentenced to death. He sought post-conviction relief, and the post-conviction court vacated the death sentence and granted a new sentencing hearing, which the State has not appealed. The post-conviction court denied Petitioner relief from his first degree murder conviction. On appeal, Petitioner contends that the post-conviction court erred by denying his claim that he received the ineffective assistance of counsel during the guilt phase of the trial. We affirm the judgment of the post-conviction court.
5.	Status	Application granted 08/13/13; Appellant's brief filed 11/27/13; State's response brief due 12/27/13 (To be heard 04/10/14 at the 24th Judicial District S.C.A.L.E.S. project)
1.	Style	Greg Parker et al. v. Holiday Hospitality Franchising et al.
2.	Docket Number	E2013-00727-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/parkergregopn.pdf">http://www.tncourts.gov/sites/default/files/parkergregopn.pdf</a>
4.	Lower Court Summary	This is a premises liability case in which Plaintiffs alleged that a shower bench in Hotel collapsed, causing Husband to fall and sustain injuries. Plaintiffs filed suit against Defendant, claiming negligence. Defendant filed a motion for summary judgment, asserting that he did not install the bench and did not have actual or constructive notice of the independent contractor's negligent installation of the bench. The trial court granted the motion for summary judgment and dismissed the case. Plaintiffs appeal. We reverse the decision of the trial court and remand for further proceedings.
5.	Status	Application granted 12/10/13; Appellant's brief due 01/09/14
1.	Style	Mack Phillips et al. v. Montgomery County, Tennessee et al.
2.	Docket Number	M2012-00737-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/phillipsm._opn.pdf">http://www.tncourts.gov/sites/default/files/phillipsm._opn.pdf</a>
4.	Lower Court Summary	Property owners submitted a subdivision plat to the local planning commission for approval. The planning commission denied the proposed plan because the property lies in the path of a planned highway extension. The property owners filed a complaint alleging the planning commission's denial constitutes a regulatory taking that is prohibited by the Tennessee Constitution, Article I, Section 21, and, also, inverse condemnation that is compensable pursuant to Tenn. Code Ann. §

29-16-123. The trial court denied the government's motion to dismiss for failure to state a claim for which relief could be granted. We affirm the trial court's judgment as to the claim based on inverse condemnation, but reverse the judgment refusing to dismiss the regulatory taking claim.

5.	Status	Application granted 10/16/13; Appellant's brief filed 11/13/13; Appellee's response brief filed 12/13/13; Appellant's reply brief due 12/27/13 (To be heard 02/05/14 in Nashville)
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1.	Style	E. Ron Pickard et al. v. Tennessee Water Quality Control Board et al.
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2.	Docket Number	M2011-02600-SC-R11-CV
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/pickard_e_ronopn.pdf">http://www.tncourts.gov/sites/default/files/pickard_e_ronopn.pdf</a>
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4.	Lower Court Summary	The Tennessee Department of Environment and Conservation issued a draft permit allowing a proposed rock quarry to discharge storm water and wastewater into a nearby creek. Owners of property allegedly affected by the discharge filed a declaratory order petition with the Water Quality Control Board, seeking a declaration construing the rules regarding the protection of existing uses of waters. The Water Quality Control Board dismissed the petition as not ripe. The Tennessee Department of Environment and Conservation subsequently issued a final permit to the quarry and the property owners filed both a permit appeal and another declaratory order petition with the Water Quality Control Board. The Water Quality Control Board again dismissed the declaratory order petition. The property owners subsequently filed a petition for a declaratory judgment in the Davidson County Chancery Court. The Water Quality Control Board and the Tennessee Department of Environment and Conservation argued that the petition was not ripe and that the property owners had not exhausted their administrative remedies. In addition, the Water Quality Control Board and the Tennessee Department of Environment and Conservation argued that Tennessee Code Annotated Section 69-3-105(i) precluded the property owners from bringing a declaratory order petition prior to issuance of a permit. The trial court ruled in favor of the property owners and issued a declaratory judgment on the construction of Tennessee Compiled Rule and Regulation 1200-04-03-.06. We affirm the trial court's rulings with regard to ripeness, exhaustion of administrative remedies, and Tennessee Code Annotated Section 69-3-105(I), but reverse the grant of summary judgment on the construction of Tennessee Compiled Rule and Regulation 1200-04-03-.06 and remand for further proceedings.
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5.	Status	Opinion filed 12/17/13
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1.	Style	State v. James Pollard
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2.	Docket Number	M2011-00332-SC-R11-CD
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/pollardjamesopn.pdf">http://www.tncourts.gov/sites/default/files/pollardjamesopn.pdf</a>
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4.	Lower Court Summary	<p>Defendant, James Allen Pollard, was indicted by the Davidson County Grand Jury for first degree murder, felony murder, and especially aggravated robbery. Following a jury trial, Defendant was convicted as charged. The trial court merged Defendants' murder convictions and sentenced him to life in prison for first degree murder and to 18 years to be served at 100 percent for his especially aggravated robbery conviction, which was ordered to be served consecutively to his life sentence. Defendant appeals his convictions and asserts the following: 1) that the State violated the requirements of <i>Brady v. Maryland</i>, 373 U.S. 83, 83 S. Ct. 1194 (1963), when it failed to disclose evidence regarding State's witness Anthony Bowers; 2) the trial court erred by refusing to grant Defendant a continuance to investigate Anthony Bowers; 3) the trial court erred by denying Defendant's motion to suppress his statement to police; 4) the trial court erred by allowing Detective Windsor to testify regarding his opinion about whether Defendant acted in self-defense; 5) the trial court committed plain error by allowing an officer to testify regarding blood spatter; 6) the alleged errors constitute cumulative error requiring a reversal of Defendants' convictions; and 7) the trial court erred by ordering Defendant's sentences to run consecutively. After a careful review of the entire record, we affirm Defendant's convictions and the lengths of his individual sentences; however, we reverse the trial court's order of consecutive sentencing and remand for a new sentencing hearing in order for the trial court to state on the record the facts which support consecutive sentencing. <i>See State v. Wilkerson</i>, 905 S.W.2d 933, 938 (Tenn. 1995).</p>
5.	Status	Heard 10/02/13 in Nashville
1.	Style	State v. Marcus Pope
2.	Docket Number	W2012-00033-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/popemarcus.pdf">http://www.tncourts.gov/sites/default/files/popemarcus.pdf</a>
4.	Lower Court Summary	<p>Appellant, Marcus Pope, was indicted by a Shelby County grand jury for aggravated robbery, aggravated burglary, and employing a firearm during the commission of a dangerous felony. The trial court granted appellant's motion for judgment of acquittal on the charge of employing a firearm during the commission of a dangerous felony, and a jury convicted him of aggravated robbery and aggravated burglary. The trial court sentenced him to concurrent sentences of ten years for aggravated robbery and six years for aggravated burglary. Appellant challenges the sufficiency of the convicting evidence and the length of his sentences. Discerning no reversible error in the record, we affirm the judgments of the trial court.</p>
5.	Status	Heard 11/06/13 in Jackson

1.	Style	Hong Samouth (Sam) Rajvongs v. Dr. Anthony Wright
2.	Docket Number	M2011-01889-SC-S09-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/rajvongsh_opn_corr.pdf">http://www.tncourts.gov/sites/default/files/rajvongsh_opn_corr.pdf</a>
4.	Lower Court Summary	A patient who alleged that he had been negligently injured by his podiatrist filed a complaint against him for malpractice, and then voluntarily dismissed the complaint without prejudice. Less than a year later, he furnished the defendant podiatrist with the sixty day notice of potential claim required by a recently enacted statute, Tenn. Code Ann. § 29-26-121(a). He subsequently refiled his complaint in reliance on his rights under the saving statute, Tenn. Code Ann. § 28-1-105. The defendant filed a motion for summary judgment, arguing that the complaint was time-barred under the saving statute because it was filed more than one year after the dismissal of the original complaint. The plaintiff contended, however, that he was entitled to the benefit of Tenn. Code Ann. § 29-26-121(c), which extends the statute of limitations on medical malpractice claims by 120 days if the plaintiff has complied with the sixty day notice requirement. The defendant responded by arguing that Tenn. Code Ann. § 29-26-121(c) does not apply to complaints filed under the saving statute. The trial court dismissed the defendant's motion for summary judgment, but allowed him to file an application for interlocutory appeal because of the novelty of the legal question involved. After careful consideration of the relevant statutes, we hold that Tenn. Code Ann. § 29-26-121(c) does apply to the saving statute, and we affirm.
5.	Status	Opinion filed 12/12/13
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1.	Style	Jose Rodriguez a/k/a Alex Lopez v. State
2.	Docket Number	M2011-01485-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/rodriguezjopen3_final.pdf">http://www.tncourts.gov/sites/default/files/rodriguezjopen3_final.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/rodriguezjosedis.pdf">http://www.tncourts.gov/sites/default/files/rodriguezjosedis.pdf</a>
4.	Lower Court Summary	The petitioner, Jose Rodriguez, brings a post-conviction challenge to his guilty plea, asserting that he received the ineffective assistance of counsel. The petitioner claims that, under <i>Padilla v. Kentucky</i> , 130 S.Ct. 1473, 1483 (2010), his counsel was deficient in failing to advise him regarding the deportation consequences of his guilty plea. The petition was filed more than one year after the guilty plea, and the post-conviction court denied relief based on the statute of limitations pursuant to Tennessee Code Annotated section 40-30-102(a). We conclude that a post-conviction action does not lie when the petitioner's record has been expunged and no conviction exists. In addition, the trial court was correct in concluding the petition was time-barred. Accordingly, we affirm the post-conviction court's summary dismissal.
5.	Status	Heard 10/02/13 in Nashville

1.	Style	State v. Henry Floyd Sanders
2.	Docket Number	M2011-00962-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/sandershenryfloyd.pdf">http://www.tncourts.gov/sites/default/files/sandershenryfloyd.pdf</a>
4.	Lower Court Summary	Appellant, Henry Floyd Sanders, was indicted for six counts of aggravated sexual battery and four counts of rape of a child. On appellant's motion, the trial court dismissed one count of aggravated sexual battery on the grounds of insufficient evidence. The jury returned verdicts of guilty on all remaining counts. The trial court ordered appellant to serve partial consecutive sentences of ten years each for the aggravated sexual battery convictions and twenty years each for the rape of a child convictions, yielding an effective forty-year sentence. Appellant raises three issues on appeal: (1) whether the trial court erred in denying his motion to suppress his statements to a third party; (2) whether the trial court erred in denying his motion for judgment of acquittal due to a variance between the bill of particulars and the State's election; and (3) whether the trial court erred in ordering partial consecutive sentences. Discerning no error, we affirm the judgments of the trial court.
5.	Status	Heard 10/02/13 in Nashville
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1.	Style	George E. Skouteris, Jr. v. Board of Professional Responsibility
2.	Docket Number	W2013-01254-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 11/06/13 in Jackson
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1.	Style	State v. Glover P. Smith
2.	Docket Number	M2011-00440-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/smithgloveropn.pdf">http://www.tncourts.gov/sites/default/files/smithgloveropn.pdf</a>
4.	Lower Court Summary	A Rutherford County Circuit Court Jury convicted the appellant, Glover P. Smith, of fabricating evidence in counts 1 and 2 and filing a false report in counts 3 through 8. During a sentencing hearing, the trial court merged the appellant's convictions of filing a false report in counts 3, 4, and 5 and ordered that he serve an effective sentence of one year in jail followed by six years of probation. Subsequently, the trial court granted the appellant's motion for judgment of

acquittal as to the fabricating evidence convictions based upon insufficient evidence. On appeal, the State contends that the trial court erred by granting the appellant's motion for judgment of acquittal. In a counter-appeal, the appellant maintains that the evidence is insufficient to support the convictions; that the trial court improperly instructed the jury on "knowingly"; that newly discovered evidence warrants a new trial; that the State committed a Brady violation; that his multiple convictions in counts 3, 4, and 5 and in counts 6, 7, and 8 violate double jeopardy; that the trial court improperly enhanced his sentences and improperly denied his request for full probation; and that the cumulative effect of the errors warrants a new trial. Based upon the oral arguments, the record, and the parties' briefs, we conclude that the trial court erred by granting the appellant's motion for judgment of acquittal and reinstate his convictions of fabricating evidence in counts 1 and 2, the merger of the convictions, and the sentence. We also conclude that the trial court should have dismissed the charges of filing a false report in counts 4 and 5 because they were multiplicitous with the charge in count 3. The appellant's remaining convictions and sentences for filing a false report in counts 6, 7, and 8 are affirmed.

5.	Status	Heard 10/01/13 at the MTSU S.C.A.L.E.S. project
1.	Style	Mary C. Smith v. UHS of Lakeside, Inc.
2.	Docket Number	W2011-02405-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/smithmcopn.pdf">http://www.tncourts.gov/sites/default/files/smithmcopn.pdf</a>
4.	Lower Court Summary	Appellant appeals the trial court's grant of summary judgment in favor of Appellee mental health facility, effectively dismissing the case. Having determined that the trial court failed to state the legal grounds upon which it was granting summary judgment, we vacate the orders at issue and remand for entry of orders that comply with Rule 56.04 of the Tennessee Rules of Civil Procedure.
5.	Status	Heard 11/06/13 in Jackson
1.	Style	Larry Sneed v. The City of Red Bank, Tennessee
2.	Docket Number	E2012-02112-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/sneedopn.pdf">http://www.tncourts.gov/sites/default/files/sneedopn.pdf</a>
4.	Lower Court Summary	After his discharge as the Chief of Police for Red Bank, Tennessee, Larry Sneed filed suit against Red Bank pursuant to the Tennessee Human Rights Act and the Tennessee Public Protection Act. He requested a jury trial on both claims. Red Bank filed a motion to transfer to circuit court and to proceed without a jury pursuant to the Tennessee Governmental Tort Liability Act. The trial court transferred the case and ordered the case to proceed without a jury on the Tennessee

Public Protection Act claim. Relying on *University of Tennessee of Chattanooga v. Farrow*, E2000-02386-COA-R9-CV, 2001 WL 935467 (Tenn. Ct. App. Aug. 16, 2001), the court held that the Tennessee Governmental Tort Liability Act did not preclude a jury trial on the remaining claim. Red Bank pursued this interlocutory appeal. We reverse the decision of the trial court and hold that the Tennessee Governmental Tort Liability Act applies to claims brought against a municipality pursuant to the Tennessee Human Rights Act; therefore, that claim must also be tried without a jury.

5.	Status	Application granted 11/12/13; Appellant's brief filed 12/10/13; Appellee's response brief due 01/09/14
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1.	Style	Andrew Spencer v. Norfolk Southern Railway
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2.	Docket Number	E2012-01204-SC-R11-CV
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/spenceraopn.pdf">http://www.tncourts.gov/sites/default/files/spenceraopn.pdf</a>
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4.	Lower Court Summary	Andrew Spencer ("Plaintiff") sued Norfolk Southern Railway Company ("Railroad") for negligence under the Federal Employers' Liability Act. After a jury trial, the Trial Court entered judgment on the jury's verdict finding and holding, inter alia, that the Railroad was not at fault for Plaintiff's injury. Plaintiff appeals raising an issue regarding jury instructions concerning foreseeability and notice. We find that the jury instruction regarding foreseeability and notice was misleading, and we vacate and remand for a new trial.
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5.	Status	Application granted 11/13/13; Appellant's brief filed 12/11/13; Appellee's response brief due 01/10/14
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1.	Style	State v. Charles D. Sprunger
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2.	Docket Number	E2011-02573-R11-CV
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/sprungercopn.pdf">http://www.tncourts.gov/sites/default/files/sprungercopn.pdf</a>
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4.	Lower Court Summary	This is a forfeiture case. Appellant was convicted of a Class B felony for sexual exploitation of children pursuant to Tennessee Code Annotated Section 39-17-1003. Appellant tendered his home computer to a repair shop. Upon examination of the hard drive, the technician discovered unlawful images and notified local law enforcement. A search warrant was subsequently executed for Appellant's home, where parts of the computer in question were discovered. After Appellant's arrest, a forfeiture warrant was executed and, after his mortgage indebtedness was satisfied, proceeds from the sale of Appellant's real property were forfeited to the State pursuant to Tennessee Code Annotated Section 39-17-1008. Appellant appeals the forfeiture of these proceeds. Discerning no error, we affirm and remand.
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5.	Status	Application granted 12/12/13; Appellant's brief due 01/13/14
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1.	Style	Christine Stevens ex rel. Mark Stevens v. Hickman Community Health Care Services, Inc. et al.
2.	Docket Number	M2012-00582-SC-S09-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Opinion filed 11/25/13
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1.	Style	Quantel Taylor v. State
2.	Docket Number	W2012-00760-SC-R11-PC
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/taylorquantelopn.pdf">http://www.tncourts.gov/sites/default/files/taylorquantelopn.pdf</a>
4.	Lower Court Summary	Petitioner, Quantel Taylor, appeals from the denial of his petition for post-conviction relief. Petitioner entered "best interest" guilty pleas to second degree murder, attempted first degree murder, and especially aggravated robbery, and received agreed upon sentences of 20 years for each offense to be served concurrently at 100 percent. In this direct appeal, Petitioner asserts that the trial court erred by denying post-conviction relief because Petitioner's trial counsel was ineffective and his plea was involuntarily and unknowingly entered. The postconviction court erred by granting the State's prehearing motion to quash subpoenas and by refusing to allow Petitioner to present an offer of proof at that hearing. However, in light of the proof at the post-conviction hearing the error, though flagrant, was harmless. The judgment is therefore affirmed.
5.	Status	Application granted 09/11/13; Appellant's brief filed 10/14/13; State's response brief filed 12/09/13; Appellant's reply brief due 12/23/13
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1.	Style	Richard Thurmond v. Mid-South Infectious Disease Consultants, PLC et al.
2.	Docket Number	M2012-02270-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/thurmondr_opn_0.pdf">http://www.tncourts.gov/sites/default/files/thurmondr_opn_0.pdf</a>
4.	Lower Court Summary	In this malpractice action, the plaintiff failed to attach proof of service of the statutory notice and the required affidavit with the complaint. The trial court dismissed the action. We affirm.

5.	Status	To be heard 02/05/14 in Nashville
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1.	Style	Diane West et al. v. Shelby County Health Care Corp.
2.	Docket Number	W2012-00044-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/westdopn.pdf">http://www.tncourts.gov/sites/default/files/westdopn.pdf</a>
4.	Lower Court Summary	This an appeal from the trial court's denial of Appellants' motion to quash Appellee's hospital liens, which were filed pursuant to Tennessee Code Annotated Section 29-22-101 <i>et seq.</i> In each Appellant's case, the hospital filed a lien and then recovered adjusted amounts for services rendered pursuant to the hospital's agreements with the Appellant's respective insurance providers. Despite having received payment, the hospital argues that it may return these adjusted payments to the insurance provider and may, instead, seek to recover its full, unadjusted bill from the Appellants' third-party tortfeasors by foreclosing its liens. We conclude that: (1) a lien, under the HLA, presupposes the existence of a debt; (2) Appellants are third-party beneficiaries of their respective insurer's service contract with the Appellee hospital; (3) having chosen to accept a price certain for services as "payment in full" and having, in fact, accepted payment from Appellants' insurance providers, the underlying debt is extinguished; (4) in the absence of an underlying debt, the hospital may not maintain its lien; (5) the right to subrogate belongs to the insurance provider and a hospital lien does not create a subrogation right in the hospital. Reversed and remanded.
5.	Status	Application granted 08/15/13; Appellant's brief filed 09/17/13; Appellee's response brief filed 11/06/13; Appellant's reply briefs filed 12/09/13
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1.	Style	Westgate Smoky Mountains at Gatlinburg v. Karla Davis, Commissioner of the Tennessee Department of Labor and Workforce Development et al.
2.	Docket Number	E2011-02538-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/westgateopn.pdf">http://www.tncourts.gov/sites/default/files/westgateopn.pdf</a>
4.	Lower Court Summary	This is an unemployment compensation case. Cynthia L. Vukich-Daw filed a claim for unemployment compensation following her termination from Westgate Resorts. The claim was originally granted by the Tennessee Department of Labor and Workforce Development and subsequently upheld by the Appeals Tribunal and the Board of Review. Westgate Resorts filed a petition for judicial review, and the trial court reversed the Board of Review's decision, finding that Cynthia L. Vukich-Daw was ineligible to receive unemployment compensation benefits because she was a qualified real estate agent pursuant to Tennessee Code Annotated section 50-7-207. Cynthia L. Vukich-Daw and the Tennessee Department of Labor and Workforce Development appeal. We reverse the decision of the trial court.

5.	Status	Heard 05/30/13 at the Girls State S.C.A.L.E.S. project
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1.	Style	Larry D. Williams v. City of Burns, Tennessee
2.	Docket Number	M2012-02423-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/williamsl.v.city_of_burns_opn.pdf">http://www.tncourts.gov/sites/default/files/williamsl.v.city_of_burns_opn.pdf</a>
4.	Lower Court Summary	A police officer who was terminated for violating chain of command and insubordination filed suit for retaliatory discharge pursuant to Tenn. Code Ann. § 50-1-304, alleging that he had been terminated for reporting illegal activities of the Police Chief to the Mayor. Following a trial, the court held that the evidence did not establish that the officer had been terminated solely for his refusal to remain silent about the illegal activities. Finding that the reasons given for the officer's termination were pretextual within the meaning of the applicable statute, we reverse the judgment of the trial court and remand for further proceedings.
5.	Status	Application granted 12/17/13; Appellant's brief due 01/16/14
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1.	Style	Sandy Womack et al. v. Corrections Corp. of America, d/b/a Whiteville Correctional Facility
2.	Docket Number	M2012-00871-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/womacksandyopn.pdf">http://www.tncourts.gov/sites/default/files/womacksandyopn.pdf</a>
4.	Lower Court Summary	This appeal involves the transfer of a state prisoner's action based on improper venue. The prisoner was housed in a correctional facility located in Hardeman County, Tennessee. The correctional facility is operated by a private entity. Pursuant to Tennessee Code Annotated section 41-21-803, the Circuit Court of Davidson County transferred this action to Hardeman County, where the correctional facility is located. Discerning no error, we affirm.
5.	Status	To be heard 02/06/14 in Nashville
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1.	Style	Cha Yang v. Nissan North America, Inc. et al.
2.	Docket Number	M2012-01196-SC-WCM-WC
3.	Lower Court Decision Link	n/a
4.	Status	To be heard 02/06/14 in Nashville